IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 32417 of 2007(H)

PETITIONER:

K.JANARDHANA KURUP, AGED 63 YEARS,
S/O.KRISHNAN NAIR, AYYAPPA BHAVANAM,
EREZHA SOUTH, CHETTIKULANGARA P.O.
MAVELIKARA.690 106.

BY ADV. SRI.A.SHAFEEK.

RESPONDENTS:
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1. **THE SUB INSPECTOR OF POLICE**
   KAYAMKULAM 690 502.

2. **BASHEER,SUMAYYA MANZIL,**
   AYANIVELIKULANGARA THEKKUMMURI,
   KARUNAGAPPALLY VILLAGE, KARUNAGAPPALLY.
   690 518.

BY GOVT. PLEADER SRI. SALIM.P.A,
ADV. SRI.N.VIMALAN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.32417/2007-H:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE GOVERNMENT ORDER NO. 74893/S2/95 DTD. 07/12/1995.

EXT.P.2: COPY OF THE CERTIFICATE DTD. 16/10/2001 ISSUED BY THE TAHSILDAR, KARUNAGAPPALLY.

EXT.P.3: COPY OF THE NOTICE DTD. 30/01/2002 ISSUED BY THE HOUSING BOARD.

EXT.P.4: COPY OF THE REPRESENTATION DTD. 17/08/2007 SUBMITTED TO THE CHIEF MINISTER.

EXT.P.5: COPY OF THE LETTER SENT FROM THE OFFICE OF THE CHIEF MINISTER INFORMING THE PETITIONER ABOUT THE FORWARDING OF HIS REPRESENTATION TO THE SECRETARY, KERALA STATE HOUSING BOARD, THIRUVANANTHAPURAM.

EXT.P.6: COPY OF THE REPRESENTATION DTD. 29/10/2007 SUBMITTED BY THE PETITIONER BEFORE THE R.1.

EXT.P.7: COPY OF THE RECEIPT DTD. 29/10/2007 ISSUED BY THE R.1. ACKNOWLEDGING THE RECEIPT OF EXT.P.6.

RESPONDENT'S EXHIBIT:

EXT.R2.A: COPY OF THE LETTER DTD. 21/10/2007 BY THE PETITIONER TO THIS RESPONDENT.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR & K.P.BALACHANDRAN, JJ.

Writ Petition (C) No.32417 of 2007-H

Judgment

Balakrishnan Nair, J.

The petitioner has approached this Court, alleging that he is facing threat to his life from the 2nd respondent and notwithstanding his representation, the Police is not rendering any protection to him. In 1990, he constructed a residential building by availing a loan from the Kerala State Housing Board. In 1996, he sold the said property to the 2nd respondent's wife, daughter and daughter-in-law. Later, when the petitioner moved the Housing Board for release of the title deed of the above said property, the Board raised an additional demand for payment of money as per Ext.P3. The petitioner challenged that demand before this Court by filing OP No.16876/06. According to the petitioner, the said OP is pending. While so, the 2nd respondent started threatening and harassing the petitioner, alleging that he was cheated by the petitioner. Therefore, the petitioner filed representations before the Police and other authorities. When no help was forthcoming from the part of the Police, this Writ Petition is filed, seeking the following relief :

"i. issue a writ of mandamus or any other appropriate writ, order or direction, compelling the 1st respondent to extend adequate and sufficient police protection to the life and property of the petitioner and his wife from the threat and intimidation of the 2nd respondent."

2. The second respondent has filed a counter affidavit, stating that the petitioner received the entire consideration and he was given to believe that all the liability to the Housing Board was cleared and the Board will soon issue the title deed. The second respondent alleges, the petitioner has deliberately cheated him. He also denies the allegations of threat, harassment etc. He only went to the house of the petitioner, along with his wife and the petitioner by Ext.R2(a) undertook to get the original title deed and hand over the same to him before 31.10.2007. The second respondent also submitted that the OP filed by the petitioner, stated to be pending before this Court, has already been disposed of on 08.11.2006 and the petitioner was given a chance to represent before the Housing Board, pointing out his grievance. So, the OP disposed of about one year back, is stated to be pending, in this Writ Petition, it is pointed

out. The petitioner has filed a reply affidavit, dealing with the averments of the second respondent in his counter affidavit.

3. We heard the learned counsel on both sides. The dispute between the petitioner and the second respondent is a civil dispute, which has to be settled before the appropriate forum. We think, it is not proper for us to ask the Police to interfere in this dispute and stand guard to the petitioner. If the second respondent is committing any cognizable offence, the petitioner can move the Police and if the police is not taking any action, he can move the competent civil court seeking appropriate reliefs. We feel that this is not a fit case, where this Court should exercise its discretionary jurisdiction under Article 226 of the Constitution of India and pass any orders in favour of the petitioner. Accordingly, the Writ Petition is dismissed without prejudice to the contentions of the petitioner and his right to move other forums for appropriate reliefs.

K.BALAKRISHNAN NAIR,JUDGE

13.11.2007 **K.P.BALACHANDRAN, JUDGE**

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